

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
JOHN Y. KIM,

Plaintiff,

06 Civ. 5365 (RPP) (DFE)

(This is not an ECF case.)

- against -

COLUMBIA UNIVERSITY,

Defendant.

-----x
MEMORANDUM AND ORDER

DOUGLAS F. EATON, United States Magistrate Judge.

1. I am responding to Mr. Updike's 9/30/09 letter to me (copy annexed).

2. I direct Mr. Kim to send me, by fax and by mail, no later than October 5, 2009, a letter stating whatever reasons there may be as to why I should not impose sanctions for his failure to comply with my 9/15/09 order. I note that the time has expired for any motion seeking reconsideration or modification of my 9/15/09 order. I direct Mr. Kim to provide documents to Defendant's counsel on a rolling basis; this means that, on each day, he must provide whatever responsive documents he has been able to gather up to that point. I direct Mr. Kim to provide all of the responsive documents as soon as possible, and in any event no later than October 13, 2009.

3. I have a jury trial scheduled for October 19 to 23, and a non-jury trial scheduled for October 26 to 29. Accordingly, I order Plaintiff to appear for his deposition at 9:00 a.m. sharp on October 30, 2009, at the offices of Schoeman Updike & Kaufman, LLP at 60 East 42nd Street. At the option of Defendant, and at Defendant's expense, the deposition of Plaintiff may be videotaped. Plaintiff must answer questions for a maximum of seven hours of questioning (excluding any breaks or colloquy, which should be kept to a minimum).

4. All the other provisions of my 9/16/09 order remain in effect.

5. I direct defense counsel to send a copy of today's Memorandum and Order to Mr. Kim by fax or e-mail as soon as possible.

Douglas F. Eaton

DOUGLAS F. EATON
United States Magistrate Judge
500 Pearl Street, Room 1360
New York, New York 10007
Telephone: (212) 805-6175
Fax: (212) 805-6181fax

Dated: New York, New York
September 30, 2009

Copies of this Memorandum and Order (and of Mr. Updike's 9/30/09 letter to me) will be sent by mail to:

Mr. John Y. Kim
c/o Harry Kim
531 Eastgate Road
Ho Ho Kus, New Jersey 07423

Charles B. Updike, Esq.
Schoeman, Updike & Kaufman, LLP
60 East 42nd Street
New York, NY 10165
(also by fax to 212-687-2123fax)

Hon. Robert P. Patterson, Jr.

... CUFF(S) _____
CUFFED FOR DFT(S) _____
PLTFF PROSE: _____
DFT. PROSE: _____
DATE: 10/01/09
BY: *[Signature]*

SCHOEMAN, UPDIKE & KAUFMAN, LLP

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September 30, 2009

VIA FACSIMILE

Hon. Douglas F. Eaton
United States Magistrate Judge
United States District Court
Southern District of New York
United States Courthouse, Rm. 1360
500 Pearl Street
New York, NY 10007

Re: *Kim v. Columbia University*
06 CV 5365

Dear Judge Eaton:

We write to inform you of Plaintiff's failure to comply with the Court's 9/15/09 Order Concerning Columbia's 7/31/09 Request for Production of Documents, attached hereto as Exhibit A. Plaintiff failed to produce any documents in accordance with the Order by September 21, 2009¹, the deadline ordered by the Court. We followed up with Mr. Kim on Friday, September 25, 2009, regarding the overdue production at which point he indicated he had not sent the documents and was not sure when he would be able to do so.

Mr. Kim has repeatedly resisted responding to these discovery requests which were first propounded almost a year ago. Prior to our last court appearance Plaintiff's response to Columbia's First Request for Production of Documents was due on September 2, 2009. On September 2, 2009, Mr. Kim sent a

¹ The deadline of September 21, 2009 was ordered by the Court on September 15, 2009. The need for the documents to be produced on that date in order to allow Defendant adequate time to review the documents prior to the October 6, 2009 deposition of Plaintiff was also discussed with Mr. Kim at that time.

Hon. Douglas F. Eaton
September 30, 2009
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letter indicating that the demand, although revised by us to adhere strictly to Judge Patterson's Order, attached as Exhibit B, was not "modified" to Mr. Kim's satisfaction.

We seek the Court's assistance in obtaining the documents in sufficient time to adequately review them and to prepare for the deposition presently scheduled for October 6, 2009.

Mr. Kim has not sought to adjourn either the due date for the documents or the date of his deposition. We are mindful of Mr. Kim's pro se status and are willing to accommodate such a request if it is made. We do not believe that our client should be prejudiced by such delay, however, if it results in having our time in which to examine the documents severely curtailed.

We would like at least a week to review the documents. My schedule is such that if the deposition does not occur on October 6 as scheduled, I will be unavailable to take the deposition until Tuesday, October 20, or any day during the week of October 27.

We are available for a conference call at the Court's convenience should you conclude such a call would be useful.

Respectfully yours,

Charles B. Updike

Enclosures

cc: John Y. Kim (via Fed Ex overnight)